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8	BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS			
10	STATE OF CONSUMER AFFAIRS STATE OF CALIFORNIA			
11	In the Matter of the Accusation Against: Case No. 2013 - 787			
12	ROCIO RIVERA			
13	7503 Kraft Avenue North Hollywood, CA 91605 ACCUSATION			
14	Registered Nurse License No. 683662			
15	Respondent.			
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17	Complainant alleges:			
18	<u>PARTIES</u>			
19	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her			
20	official capacity as the Executive Officer of the Board of Registered Nursing, Department of			
21	Consumer Affairs (Board).			
22	2. On or about July 17, 2006, the Board issued Registered Nurse License No. 683662 to			
23	Rocio Rivera (Respondent). The Registered Nurse License was in full force and effect at all			
24	times relevant to the charges brought herein and will expire on December 31, 2013, unless			
25	renewed.			
26	<u>JURISDICTION</u>			
27	3. This Accusation is brought before the Board under the authority of the following			
28	laws. All section references are to the Business and Professions Code unless otherwise indicated			
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STATUTORY PROVISIONS

- 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
- 5. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
 - 6. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.
- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . ."
 - 7. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license. . . . "

8. Section 2764 provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight (8) years after the expiration.

COST RECOVERY

9. Section 125.3 provides that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Dangerous Use of Alcoholic Beverages)

10. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and 2762, subdivision (b), on the grounds of unprofessional conduct, in that on or about November 1, 2010, and September 10, 2007, Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to herself or others, as follows:

A. Drunk in Public Incident (November 2010)

(1) On or about November 1, 2010, Los Angeles County Sheriff's Department officers responding to a domestic disturbance call found Respondent sitting in a parking area in a puddle of urine, having wet her pants. Respondent was observed to have watery bloodshot eyes, and emitted a strong odor of alcohol. Respondent told officers that after a verbal altercation at her boyfriend's apartment - he told her to leave the apartment. Respondent stated she "was too drunk to go home" and planned to sleep on the asphalt parking lot. Officers concluded she was intoxicated and unable to care for herself, and arrested her for being drunk in public (Penal Code section 647 (f) (public intoxication)).

(2) A criminal misdemeanor charge pursuant to Penal Code section 647 (f) (public intoxication) was filed on or about December 27, 2010, in the matter entitled *The People of the State of California v. Rocio Rivera* (Super. Ct. Los Angeles County, 2010, No. 0BF016198). On or about January 26, 2011, pursuant to a plea agreement, the Court ordered Respondent to complete 20 AA/NA (Alcoholics Anonymous/Narcotics Anonymous) meetings, and provide proof of employment for possible dismissal. On or about May 26, 2011, Respondent complied with the Court Order and the Court dismissed the matter.

B. Drunk in Public Incident (September 2007)

(1) On or about September 10, 2007, City of Pasadena Police Department officers detained Respondent for public intoxication pursuant to Penal Code sections 647(f) (public intoxication) and 849 (b)(2) (arrest without warrant) after identifying her as "too intoxicated to care for her own safety." Officers initially encountered Respondent as a passenger in a vehicle parked in a 'no stopping zone' in front of a bar. Officers observed that Respondent "staggered" out of the vehicle, had difficulty maintaining her balance, and was unable to answer simple questions or complete sentences. No criminal prosecution resulted from this incident.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

- 1. Revoking or suspending Registered Nurse License No. 683662, issued to Rocio Rivera;
- 2. Ordering Rocio Rivera to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
 - 3. Taking such other and further action as deemed necessary and proper.

DATED:	MARCH	18.	2013
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LOUISE R. BAILEY, M.ED., RN

Executive Officer

Board of Registered Nursing Department of Consumer Affairs

State of California

Complainant

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